

Crosby S. Connolly, Esq. (SBN: 286650)
 crosby@westcoastlitigation.com
 Joshua B. Swigart, Esq. (SBN: 225557)
 josh@westcoastlitigation.com
Hyde & Swigart
 2221 Camino Del Rio South, Suite 101
 San Diego, CA 92108
 (619) 233-7770
 (619) 297-1022

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

Luis G. Seagraves, Jr., <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> California Service Bureau, Inc. and the Law Offices of Michael K. Sipes, <p style="text-align: center;">Defendants.</p>	Case No: _____ Complaint For Damages Jury Trial Demanded
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INTRODUCTION

- The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to eliminate abusive debt collection practices by debt collectors,

HYDE & SWIGART
San Diego, California

1 to insure that those debt collectors who refrain from using abusive debt
2 collection practices are not competitively disadvantaged, and to promote
3 consistent State action to protect consumers against debt collection abuses.

4 2. The California legislature has determined that the banking and credit system
5 and grantors of credit to consumers are dependent upon the collection of just
6 and owing debts and that unfair or deceptive collection practices undermine
7 the public confidence that is essential to the continued functioning of the
8 banking and credit system and sound extensions of credit to consumers. The
9 Legislature has further determined that there is a need to ensure that debt
10 collectors exercise this responsibility with fairness, honesty and due regard
11 for the debtor's rights and that debt collectors must be prohibited from
12 engaging in unfair or deceptive acts or practices.

13 3. Luis G. Seagraves, Jr. , ("Plaintiff"), through Plaintiff's attorneys, brings this
14 action to challenge the actions of California Services Bureau, Inc.,
15 ("California Services") and the Law Offices of Michael K. Siples ("Sipes"),
16 collectively ("Defendants"), with regard to attempts by Defendants to
17 unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this
18 conduct caused Plaintiff damages.

19 4. Plaintiff makes these allegations on information and belief, with the exception
20 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which
21 Plaintiff alleges on personal knowledge.

22 5. While many violations are described below with specificity, this Complaint
23 alleges violations of the statutes cited in their entirety.

24 6. Unless otherwise stated, all the conduct engaged in by Defendants, took place
25 in California.

26 7. Any violations by Defendants were knowing, willful, and intentional, and
27 Defendants did not maintain procedures reasonably adapted to avoid any such
28 violation.

JURISDICTION AND VENUE

8. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. § 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.
9. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") and the Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788-1788.32 ("Rosenthal Act").
10. Plaintiff is a natural person who resides in the City of Daly City, County of San Mateo, State of California.
11. Plaintiff resides in San Mateo County, as defined by 28 U.S.C. § 1391c(1), the judicial district in which this lawsuit is brought.
12. At the time of the substantial part of the events or omissions giving rise to the claim occurred, primarily, Defendants mailing, and Plaintiff receiving Defendants' December 30, 2014 correspondence, Plaintiff was physically located in the City of Daly City, County of San Mateo, State of California.
13. Because a substantial part of the events or omissions giving rise to the claim occurred in San Mateo County, venue is proper pursuant to 28 U.S.C. § 1391b(2).
14. At all times relevant, Defendants conducted business within the State of California.

PARTIES

15. Plaintiff is a natural person who resides in the County of San Mateo, State of California.
16. California Services is located in the City of Novato, in the State of California.
17. Sipes is located in the City of Sacramento, in the State of California.
18. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

19. Defendants are persons who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and are therefore debt collectors as that phrase is defined by 15 U.S.C. § 1692a(6).
20. Plaintiff is a natural person from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from Plaintiff, and is a “debtor” as that term is defined by California Civil Code § 1788.2(h).
21. Defendants, in the ordinary course of business, regularly, on behalf of himself, herself, or others, engages in debt collection as that term is defined by California Civil Code § 1788.2(b), and are therefore debt collectors as that term is defined by California Civil Code § 1788.2(c).
22. This case involves money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a consumer debt and “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

FACTUAL ALLEGATIONS

23. Sometime before September 9, 2014, Plaintiff is alleged to have incurred certain credit card-related financial obligations.
24. These financial obligations were primarily for personal, family or household purposes and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).
25. These alleged obligations were money, property, or their equivalent, which is due or owing, or alleged to be due or owing, from a natural person to another person and are therefore a “debt” as that term is defined by California Civil Code §1788.2(d), and a “consumer debt” as that term is defined by California Civil Code §1788.2(f).

26. Sometime thereafter, but before September 9, 2014, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt. Plaintiff currently takes no position as to the validity of this alleged debt.
27. Subsequently, but before September 9, 2014, the alleged debt was assigned, placed, or otherwise transferred to Defendants for collection.
28. On or about September 9, 2014, Sipes, acting on behalf of California Services, filed a collections lawsuit against Plaintiff in the Superior Court of San Mateo, Case Number CLJ530511.
29. On or about October 14, 2014, after retaining present counsel, counsel, acting on behalf of Plaintiff, filed Plaintiff's Answer with the court and mailed Plaintiff's Answer to opposing counsel.
30. On or about October 14, 2014, Plaintiff's counsel mailed Defendants Plaintiff's Request for Admissions, Plaintiff's Request for Production of Documents and Plaintiff's Demand for Bill of Particulars.
31. On or about November 19, 2014, Defendants' mailed California Services' responses to Plaintiff's Request for Admissions and Plaintiff's Request for Production of Documents directly to Plaintiff's counsel.
32. On or about December 30, 2014, and despite being placed on notice that Plaintiff was represented by present counsel, Defendants contacted Plaintiff by mailed correspondence, in regards to attempts to collect a debt.
33. Without the prior consent of the consumer given directly to the Defendants or the express permission of a court of competent jurisdiction, Defendants communicated with the consumer in connection with the collection of a debt when Defendants knew the consumer was represented by an attorney with respect to such debt and had knowledge of, or could have readily ascertained such attorney's name and address. Consequently, Defendants violated 15 U.S.C. § 1692c(a)(2).

34. Because this violated certain portions of the federal Fair Debt Collection Practices Act as these portions are incorporated by reference in the Rosenthal Fair Debt Collection Practices Act, through California Civil Code § 1788.17, Defendant's conduct or omission violated Cal. Civ. Code § 1788.17.

CAUSES OF ACTION

COUNT I

FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

15 U.S.C. §§ 1692 ET SEQ.

35. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

36. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

37. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendants.

COUNT II

ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)

CAL. CIV. CODE §§ 1788-1788.32

38. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

39. The foregoing acts and omissions constitute numerous and multiple violations of the Rosenthal Act, including but not limited to each and every one of the above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

40. As a result of each and every violation of the Rosenthal Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a);

1 statutory damages for a knowing or willful violation in the amount up to
2 \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's
3 fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

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5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and
7 Plaintiff be awarded damages from Defendant, as follows:

- 8 • An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §
9 1692k(a)(2)(A);
10 • An award of costs of litigation and reasonable attorney's fees, pursuant
11 to 15 U.S.C. § 1692k(a)(3);
12 • An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code
13 § 1788.30(b);
14 • An award of costs of litigation and reasonable attorney's fees, pursuant
15 to Cal. Civ. Code § 1788.30(c).

16 41. Pursuant to the seventh amendment to the Constitution of the United States of
17 America, Plaintiff is entitled to, and demands, a trial by jury.

18
19 Respectfully submitted,

20 **Hyde & Swigart**

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22 Date: February 20, 2015

23 By: s/ Crosby S. Connolly
24 Crosby S. Connolly
25 Attorneys for Plaintiff
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